

**United States District Court, Northern District of Illinois**

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|--|--|--|----------|
| Name of Assigned Judge or Magistrate Judge | James B. Moran   | Sitting Judge if Other than Assigned Judge |          |
| CASE NUMBER                                | 01 C 7206  | DATE                                       | 6/7/2002 |
| CASE TITLE                                 | Utility Resource Management etc. Vs. American Hotel etc.et al. |  |          |

[In the following box (a) indicate the party filing the motion, e.g., plaintiff, defendant, 3rd party plaintiff, and (b) state briefly the nature of the motion being presented.]

**MOTION:**

## Memorandum Opinion and Order

**DOCKET ENTRY:**

- (1)  Filed motion of [ use listing in "Motion" box above.]

(2)  Brief in support of motion due \_\_\_\_\_.

(3)  Answer brief to motion due \_\_\_\_\_. Reply to answer brief due \_\_\_\_\_.

(4)  Ruling/Hearing on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.

(5)  Status hearing[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.

(6)  Pretrial conference[held/continued to] [set for/re-set for] on \_\_\_\_\_ set for \_\_\_\_\_ at \_\_\_\_\_.

(7)  Trial[set for/re-set for] on \_\_\_\_\_ at \_\_\_\_\_.

(8)  [Bench/Jury trial] [Hearing] held/continued to \_\_\_\_\_ at \_\_\_\_\_.

(9)  This case is dismissed [with/without] prejudice and without costs[by/agreement/pursuant to]  
 FRCP4(m)    General Rule 21    FRCP41(a)(1)    FRCP41(a)(2).

(10)  [Other docket entry] Enter Memorandum Opinion and Order. Defendant wants to file a counterclaim and plaintiff objects. We refer the motion to Magistrate Keys for ruling.

(11)  [For further detail see order (on reverse side of/attached to) the original minute order.]

|  | No notices required, advised in open court. | number of notices                 | Document Number |
|--|---|-----------------------------------|-----------------|
|  | No notices required.                        |                                   |                 |
|  | Notices mailed by judge's staff.            |                                   |                 |
|  | Notified counsel by telephone.              |                                   |                 |
| <input checked="" type="checkbox"/>  | Docketing to mail notices.                  |                                   |                 |
|  | Mail AO 450 form.                           |                                   |                 |
|  | Copy to judge/magistrate judge.             |                                   |                 |
| WAH  |   | courtroom<br>deputy's<br>initials |                 |
| <p style="text-align: center;">U.S. DISTRICT COURT<br/>CLERK'S OFFICE</p> <p style="text-align: center;">JUN 10 2002</p> <p style="text-align: center;">02 JUN - 8 AM 9:30</p> <p>Date/time received in<br/>central Clerk's Office</p> |   |                                   |                 |
| <p>JUN 10 2002</p> <p>docketing deputy initials</p> <p>date mailed notice</p> <p>mailing deputy initials</p>   |   |                                   |                 |

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

UTILITY RESOURCE MANAGEMENT )  
GROUP, INC., )  
Plaintiff, )  
vs. ) No. 01 C 7206  
AMERICAN HOTEL REGISTER CO., )  
et al., )  
Defendants. )

DOCKETED  
JUN 10 2002

MEMORANDUM OPINION AND ORDER

Defendant wants to file a counterclaim and plaintiff objects. Discovery, which was referred to Magistrate Judge Keys, was still open, with a number of depositions still to be taken. Discovery is to close in July, with defendant having assured Judge Keys that it can complete discovery on the counterclaim by then.

Most of the counterclaim is an offensive repackaging of the defensive position long known to plaintiff. Plaintiff claims it is entitled to compensation under a consulting agreement for recommendations for cost savings it made. Defendant contends otherwise, arguing that plaintiff made a very general recommendation that was not helpful and, at most, broadly included a much more specific business decision defendant had already studied and decided. To that extent the counterclaim can hardly be deemed prejudicial to plaintiff, it should not impact discovery, and it should be allowed.

The real crux of the amendment dispute appears to center on defendant's claim that plaintiff, as a way of doing business, makes general recommendations to its clients and then sues for consulting fees for any change within that umbrella. That does mean broader



discovery. But, says defendant, plaintiff dragged its feet in providing information about other claims it had made, and plaintiff was not provided with the information justifying that allegation until just before the motion for leave to file the counterclaim.

If that is so, then defendant should be allowed to go forward. We think, however, that Judge Keys, who has a hands-on knowledge of the course of discovery, is in a far better position than this court to determine whether that is so or what the circumstances may be, and thus to judge whether the introduction of that additional factor now is appropriate. We refer the motion to him for ruling.

  
\_\_\_\_\_  
JAMES B. MORAN  
Senior Judge, U. S. District Court

 June 7, 2002.